

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 10th DAY OF NOVEMBER IN THE YEAR TWO THOUSAND TEN OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: CALL TO ORDER

Chairman Sparks called the meeting to order.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

The Reverend Paul Rowles of St. Peters Parish Church gave the invocation and members of Boy Scout Troop #562 led the Pledge of Allegiance.

IN RE: ROLL CALL

Thomas W. Evelyn	Present
David M. Sparks	Present
James H. Burrell	Present
Stran L. Trout	Present
W. R. Davis, Jr.	Present

All members were present.

IN RE: CONSENT AGENDA

The Consent Agenda was presented as follows:

1. Approval of Minutes
 - a. September 29, 2010 work session
 - b. October 12, 2010 business meeting
 - c. October 18, 2010 special meeting
2. Miscellaneous
 - a. Second Amendment to Lease Agreement with RCTC Wholesale Corporation, d/b/a Verizon Wireless for cell tower at main transfer station
 - b. Utilities Agreement and Promissory Note with Oaks Development LC
 - c. ~~Stolz Easement Agreement~~
 - d. Resolution R-57-10 requesting the 2011 General Assembly declare synthetic cannabinoids illegal in the State of Virginia
 - e. Award of Contract for Gym Basketball Goal Renovations project to T J Distributors of MD, Inc. for \$31,100
3. Refunds
 - a. \$66.00 to Effinger Properties for building permit under the Business Incentive Program
 - b. \$137.50 to Effinger Properties for building permit under the Business Incentive Program
 - c. \$2,100.54 to Michele L. Schultz for erroneous assessment (square footage correction)
4. FY11 Supplemental Appropriations

- a. Funds for supplemental security from the Sheriff's Office and Fire-Rescue for July and August, \$35,190.64
- b. Funds donated to the New Kent Animal Shelter, \$1,580.00
- c. Funds received from vending machine sales for employee Christmas parties, \$205.70
- d. Funds received for gifts and donations, \$677.50
- e. Funds received for insurance proceeds for a Sheriff's vehicle involved in an accident in July, \$21,103.56
- f. Litter prevention and recycling program grant award, \$5,837.00
- g. Additional funding from the rebate for the use of the Bank of Virginia purchase card system, \$20,369.21
- h. Unsolicited PPEA funds for historic school, \$5,000.00
- i. Funds for redistricting, \$3,520.00
- j. Additional school funds, \$13,201.21
- k. Additional school funds, \$265,596.35
- l. Program income received to date for FY11 from CDBG Plum Point grant participants, \$1,096.54

Total Supplemental Appropriation:
\$(369,857.71) Total
\$ 369,857.71 Money In/Money Out

- 5. FY11 Carry Forward Appropriations
 - a. Unexpended school allocation funds from FY10, \$1,442,244.25
 - b. Utility funds for PO # 27293-002 URS – Overpayment/Refund Error, \$2,700.00

Total Supplemental Appropriation:
\$(1,444,944.25) Total
\$ 777,417.23 From Fund 1 – General Fund Balance
\$ 498,827.02 From Fund 7 – Capital Fund Balance
\$ 2,700.00 From Fund 98 – Utility Fund Balance
\$ 166,000.00 From Fund 206 – School Textbook Fund Balance

- 6. Inter-Departmental Budget Transfers
 - a. *Schools*: \$2,211 from Prior Year Lottery/Construction to Athletics Supplies NKHS and Groundskeeping Contracts
 - b. *Schools*: \$11,500 from School Contingency Fund to Furniture & Fixtures NKES and GWES
 - c. *Social Services*: \$1,331 from Grant Funding Contingency to Child Protective Services-PS82402, Adult Services (83304), Salaries & Wages, and Safe & Stable Families
 - d. *Fire Rescue*: \$4,633 from Contingency to Operating Supplies and Spec Duty-Col Downs
 - e. *Schools*: \$1,315 from School Contingency to Materials & Supplies CTC
 - f. *Schools*: \$4,910 from School Contingency to Furniture & Fixtures NKMS
 - g. *Schools*: \$3,830 from School Contingency to Misc Services Personnel, \$3,830
 - h. *Schools*: \$11,520 from School Contingency to Furniture & Fixtures NKES and GWES
 - i. *Schools*: \$3,814 from School Contingency to Software/Online Content
 - j. *County Administrator*: \$2,562 from Reserved for Contingency to Relocation Expense

7. Treasurer's Report: Cash as of September 2010: \$34,317,383.23

It was confirmed by County Attorney Michele Gowdy that Item 2c, Stolz Easement Agreement, had not yet been finalized and should be removed from the Consent Agenda.

Mr. Trout moved to approve the Consent Agenda as presented, with the deletion of Item 2c, and that it be made a part of the record. The members were polled:

Thomas W. Evelyn	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye

The motion carried.

IN RE: PRESENTATION

Chairman Sparks and Community Development Director George Homewood presented a copy of Resolution R-55-10 to Eagle Scout Jonathon Gellings. Mr. Homewood explained that New Kent had received significant recognition for a recently completed, 100% grant-funded bicycle routes project. He noted that much of the comment and recognition received was because of the significant amount of volunteer assistance with the project, which included Jonathan Gellings' Eagle Scout project, in which he had secured materials and provided labor to construct two bridges that allowed for safe access for bicyclists at the Visitors Center. He spoke about how Eagle Scout was the highest rank in the Boy Scouts, with fewer than 2% attaining that rank, and how an Eagle Scout project must include providing leadership to others in accomplishing the project. He advised that New Kent was most grateful for the service that Mr. Gellings provided and then he read the resolution aloud for the audience.

Mr. Gellings thanked his father for his help, as well as Mark and Nancy Burnett for their large donation towards the project.

Mr. Trout congratulated Mr. Gellings and offered assistance to his fellow Scouts in attendance who might need help with obtaining their citizenship merit badges.

Mr. Evelyn congratulated Mr. Gellings as well, noting that he had enjoyed watching him grow up into a "fine young man" and he also commended Troop Leader Steve Von Hitritz for his work and commitment to his Troop.

IN RE: INTRODUCTION OF NEW STAFF

Building Official Clarence Jackson introduced new building inspector, Jason Laws.

IN RE: 2010 NEW KENT UNIVERSITY GRADUATION

County Administrator Cabell Lawton and Board members awarded certificates to the 2010 New Kent University graduates. Class members included Karen Bartlett, Karen Cameron, Jack Chalmers, Doug Dill, Betty Dillard, Edward Erickson, Carol Gill, Barbara Gilroy, Joe Justice, Lillian Mooradian, Peggy Nacci, Violet Peyton, Cathy Pope, Sue Prince, Robin Seeterlin, Jill Watson, Randy Watson, and Susan Winslow.

Mr. Lawton and Board members commented about the program and congratulated the graduates on their participation. Several of the graduates spoke about the merits of the program and thanked staff and the presenters for their time and effort.

IN RE: CITIZENS COMMENT PERIOD

Chairman Sparks opened the Citizens Comment Period.

William Leary of 5901 Brickshire Drive, read a resolution recently adopted by the New Kent County Chamber of Commerce in support of the relocation of the Heritage Public Library to the Historic School and asking the Board to promptly allocate space to the Library so that they could move forward with fundraising activities.

Richard Dawes of 11221 Carriage Road, and one of the food bank volunteers at a local church, asked that the County not interfere with their successful feeding program by establishing a central food pantry. He spoke about the County having to tie up property and spending taxpayer money on the program, and suggested that the Board let the local programs continue to operate the way they were.

Mr. Dawes was asked to remain for the Food Pantry Update later in the meeting.

There being no one else signed up to speak, the Citizens Comment Period was closed.

IN RE: ELECTED OFFICIALS' REPORTS

Mr. Davis spoke about the Board members' attendance at the recent Virginia Association of Counties (VACo) annual conference.

Mr. Trout announced details of upcoming events in the County.

Mr. Burrell spoke about New Kent's successful recycling efforts as well as the continuing problem with vehicle accidents involving deer.

Mr. Sparks commented that he was sorry to have missed the VACo annual conference and spoke about how it was a good opportunity for Board members to network with their counterparts from other localities.

IN RE: STAFF REPORTS

Mr. Lawton reminded that County offices would be closed the following day for Veterans Day and that the Board had a special meeting scheduled for November 12 to interview those companies who submitted proposals for the Historic School renovation project.

He indicated that he had attended a briefing on the State budget at the recent VACo conference where it was announced that all surplus State funds through 2017 would be put into the State's "Rainy Day Fund" and that there may be an unfunded mandate for FY2012 for special "line of duty" insurance that would become a local responsibility. Mr. Trout expressed his concern as to whether an agency not operating under the County, like Providence Forge Volunteer Rescue Squad, would even be included; Mr. Lawton advised that it was his information that the County might be liable for coverage for such agencies.

IN RE: CLOSED SESSION

Mr. Davis moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving performance of an employee, and for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia involving potential or actual litigation and specific legal matters that require advice. The members were polled:

James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
David M. Sparks	Aye

The motion carried. The Board went into closed session.

Mr. Trout moved to return to open session. The members were polled:

Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye
David M. Sparks	Aye

The motion carried.

Mr. Burrell made the following certification:

Whereas, the New Kent County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, Section 2.2-3712 of the Code of Virginia requires a certification by the Board that such closed session was conducted in conformity with Virginia law;

Now there be it resolved that the Board hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open session requirements by Virginia law were discussed in closed session to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Board.

The Chairman inquired whether there was any member who believed that there was a departure from the motion. Hearing none, the members were polled on the certification:

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
David M. Sparks	Aye

The motion carried.

IN RE: AMENDMENTS TO THE AGRICULTURAL AND FORESTAL DISTRICT ORDINANCE

Before the Board for consideration was Ordinance O-09-10, amending Chapter 63, Article II of the New Kent County Code regarding Agricultural and Forestal Districts (AFDs).

Environmental Planning Manager Amy Walker recounted that it had been determined the previous year that changes were necessary to the County's AFD ordinance to ensure compliance with the State Code and to allow for more efficient administration of the AFD Program.

She reviewed the proposed changes, advising that proposed amendments to Section 62-33 would change the application due date from May 1 to March 1 in order to allow adequate time for the required notices and meetings set forth in the State Code.

She noted that proposed changes to Section 62-37 would remove a 30-day requirement for applications to be forwarded to the AFD Advisory Committee, which currently conflicted with the required public notice requirement.

She indicated that proposed changes to Section 62-39 would allow development on an AFD parcel if certain conditions were met, which could include requiring the owner, upon application for the construction and placement of a dwelling on land lying within an AFD, to present sufficient evidence that a substantial part of their livelihood was earned from a farm or forestry operation on the same property.

Mr. Sparks asked about the definition of "substantial". Staff explained that it was language from the State Code but was not quantified therein, and that the Board would be asked to make that determination on a case-by-case basis. It was confirmed that if a house was built on AFD property, then the parcel on which the house was built would be removed from the Program and such removal could affect the ability for the remainder of the property to remain in the Program if it no longer met the minimum acreage requirements.

Ms. Walker advised that proposed changes to Section 62-41 would allow for a review of the districts half way through the term to ensure compliance with the Program. She explained that this would allow the County to require a homeowner to provide proof of compliance that the property was still in agriculture or forestry.

There was discussion regarding instances where AFD land might have been put into a conservation easement but used for mitigation. Ms. Walker advised that the owner of such land would still have to maintain sufficient acreage in active agriculture or forestry to remain in the AFD Program.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Ms. Walker summarized that all of the proposed changes were necessary to comply with the State Code, with the exception of the mid-term review. She advised that the amendments would reduce the advertising and mailings costs and would otherwise streamline the process. She confirmed that all Districts were open until August 2011.

Mr. Burrell moved to adopt Ordinance O-09-10 amending, restating, and readopting Chapter 63, Article II, Agricultural and Forestal Districts, to the New Kent County Code of Ordinances. The members were polled:

Thomas W. Evelyn	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye

The motion carried.

IN RE: POTTER WITHDRAWAL FROM THE COOKS MILL AFD

Before the Board for consideration was Resolution R-56-10 approving an application filed by Richard Potter and James and Kathleen Wills, to withdraw 1.041 acres of tax map parcel 14-6 from the Cooks Mill AFD.

Ms. Walker explained that the withdrawal was necessary for a boundary line adjustment between Mr. Potter and the Wills, with the subject property being separated from the remainder of the Potter property by a gravel drive, and adjacent to the Wills property. She reported that the Wills had maintained the property, and that the property was not farmed by Mr. Potter because of its size and location. She confirmed that the remainder of the parcel, 153.189 acres, was currently in active agriculture and would remain in the AFD Program. She indicated that the boundary line adjustment documents had been prepared and would be recorded once the withdrawal was approved.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Davis moved to adopt Resolution R-56-10 to approve the AFD withdrawal of 1.041 acres from the Cooks Mill AFD from tax map parcel 14-6, GPIN# L23-2140-4062, currently consisting of approximately 154.23 acres, leaving the remaining 153.189 acres of parcel 14-6 in the Cooks Mill AFD. The members were polled:

James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
David M. Sparks	Aye

The motion carried.

IN RE: COMMUNITY FOOD PANTRY

Mr. Lawton reviewed that at a previous meeting the Board had deferred action on approving the proposed Operating Guidelines and moving forward with repairs on the freezer in the Historic School cafeteria until he had met with the School Board and held further meetings with representatives from the churches and Brown Bag Program.

He reported that some changes had been proposed to the draft Operating Guidelines, which included adding a representative to the Steering Committee from Social Services, Virginia Cooperative Extension's Master Gardener Program, and the business community.

He indicated that he had met with the School Board, who had indicated that they had some future uses planned for the cafeteria space and had suggested that any food pantry

operation placed in that area be of a temporary nature. He added that Chairman Sparks was scheduled to meet with the School Board Chairman on November 12 to further discuss the matter, and Mr. Davis was asked to also attend that meeting.

Mr. Lawton reviewed that the initial estimate to repair the freezer was around \$6,000, but could increase if other problems were discovered once it was turned on, and noted that there would also be some operating costs.

He explained that churches operating their own feeding program would not be required to participate. He clarified that the Altria Group grant obtained by Quin Rivers Agency would pay for the salary of a person to run the facility, and that there would be no matching funds required from the County.

Mr. Davis spoke about how the proposal had come about, initiated by a request from Brown Bag to use the space for its operation, and eventually developed into a plan to allow for a central food pantry location that would provide storage for more food and better access for a greater number of individuals. He indicated that the proposal had initially been well-received by everyone but that recently some opposition had arisen. He advised that similar programs were run in other localities and it was important to make the best decision for "all hungry people in the County", not just those being served by specific groups. He clarified that the program would be run by the volunteers, and the only difference would be that there would be someone on site to facilitate the operations and to maintain the records, and perhaps to locate other grants for the operation.

Mr. Evelyn commented that he felt that there had been some miscommunication and more input was needed from the churches.

Mr. Sparks suggested that after he had a chance to meet with the School Board Chairman, more discussion should be scheduled with the churches and other groups. He emphasized that there was no obligation for anyone to participate and he felt that there was "some bad information out there".

Mr. Trout spoke about some of his concerns, which included that the grant was only for one year and he feared that the County might become responsible after that time. He also commented that the cafeteria space would need to be closed for some major renovation work and any food pantry operation would have to be shut down or relocated, and he did not want to spend money on repairing the freezer if it was going to be turned off again. He reminded that the initial request received from the Brown Bag program was to use the space at no cost to County taxpayers for either equipment repair or staff.

Some members of the audience asked to speak, but Mr. Sparks reminded that this Agenda Item was informational in nature and he assured them that there would be opportunities to provide input at a future meeting.

The Chairman summarized by stating that everyone's points were well taken and that after the upcoming meeting with the School Board, additional meetings with community organizations would be scheduled. He reflected that the ultimate goal was to help those in need and noted from recent newspaper reports that the situation in New Kent was better than in some of the neighboring localities.

IN RE: DISTRICT APPOINTMENTS

There were none.

IN RE: NON-DISTRICT APPOINTMENTS

Mr. Davis moved to appoint Jan Haviland as an at-large member of the Clean County Committee to complete a term ending December 31, 2012. The members were polled:

Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye
David M. Sparks	Aye

The motion carried.

IN RE: MEETING SCHEDULE

The Chairman announced that the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, December 13, 2010, and the next work session would be held on November 17, 2010, at 3 p.m. The Chairman also announced that the Board would meet in special session at 9 a.m. on November 12, 2010 to interview those who submitted responsive proposals for renovation of the Historic School, and that all meetings would be held in the Boardroom of the County Administration Building.

IN RE: ADJOURNMENT

Mr. Burrell moved to adjourn the meeting. The members were polled:

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
David M. Sparks	Aye

The motion carried.

The meeting was adjourned at 7:55 p.m.